

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>ERIC, ODIN AND JOY S. OSTLING,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 66623</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on February 19, 2016, Sondra Mercier and MaryKay Kelley presiding. Joy Ostling appeared *pro se* on behalf of Petitioners. Respondent was represented by Rachel Bender, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**4551 Eldridge Street, Golden, Colorado  
Jefferson County Schedule No. 035095**

The subject is a 1,726 square foot residence with a two-car detached garage, public utilities, and water rights (well). The house was built in 1958 with additions in 1970 and 1995. It sits on a 0.930 acre site with A-2 zoning (permits livestock) and is negatively influenced by nearby railroad tracks.

Petitioners are requesting an actual value of \$240,000. Respondent assigned a value of \$338,680.

Petitioners discussed contamination of the well. Ms. Ostling presented exhibits identifying the contaminate as perchloroethene (PCE), commonly used as a dry cleaning solvent and a degreaser for parts cleaning. Groundwater sampling and soil testing by the Public Health Department concluded the presence of a migratory plume throughout the neighborhood. The subject site was tested for eight years, and a November 2015 Public Health Department letter showed a decrease in

size and magnitude of the PCE plume. Because the legal limit for PCE is either 17 ug/L (non-drinking use) or 5 ug/L (drinking water supply) and because the subject well tested at 6.7 ug/L in June of 2015, Petitioners were cautioned against domestic use. Ms. Ostling contended that value of the property, therefore, was significantly impacted.

Ms. Ostling considered Respondent's market sales to be poor comparisons for the subject property and presented 4535 Eldridge Street as most similar due to its proximity, the railroad tracks, acreage (0.93 acre), zoning (A-2), and a similarly-contaminated well. While this property has not sold recently, she reported its actual value for tax year 2015 at \$268,000, saying the two very similar properties should have been equally valued.

Ms. Ostling argued that the subject's value should remain at the 2012 level or \$240,000.

Respondent presented a value of \$338,680 for the subject property based on the market approach. Respondent's witness, Dorin Tissaw, Ad Valorem Appraiser for the Assessor's Office, was not permitted an interior inspection of the subject property. She presented four comparable sales ranging in sale price from \$285,000 to \$458,000. She made adjustments for seller concessions and time, acreage, the nearby railroad tracks, age, improvement and garage sizes, and patios/decks. Adjusted sale prices ranged from \$322,704 to \$469,837. Although most weight was placed on Sales One and Four, Ms. Tissaw failed to present a final estimate and, rather, concluded support for the assigned value of \$338,680.

Ms. Tissaw discussed the well. While agreeing that the subject's well water should not be used domestically, she also noted that public utilities serviced the residence and that the well could safely be used for irrigation. She concluded to no impact in marketability or value.

Petitioners presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Both state constitution and statute require use of the market approach to value residential property in the current base year. Adoption of an actual value for a prior tax year cannot and should not take precedence over an analysis of recent sales and market conditions.

The Board can consider Petitioners' equalization argument if evidence or testimony is presented showing that the assigned value of the equalization sale was derived by application of the market approach. A market approach was not offered, and insufficient information about Petitioners' comparable property was offered for comparison to the subject. Since evidence or testimony was not presented, the Board gives limited weight to the equalization argument. *Arapahoe County Board of Equalization v. Podoll*, 935P.2d 14(Colo.1997).

The Board agrees with Petitioners that the nearby railroad tracts impose a negative influence on the subject property. Respondent's appraiser appropriately applied an adjustment to all comparable sales for this influence.

The Board agrees with Respondent's witness that PCE levels in the subject's well have decreased over the years and that the well provides water for irrigation. There is insufficient evidence to support or quantify a negative adjustment for the issue of contamination.

**ORDER:**

The petition is denied.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered)

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 3rd day of March, 2016.

**BOARD OF ASSESSMENT APPEALS**



\_\_\_\_\_  
Sondra Mercier

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

